

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

830 PUNCHBOWL STREET, ROOM 221
HONOLULU, HAWAII 96813

<http://tax.hawaii.gov/>

Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Clarence K. Nishihara, Chair
and Members of the Senate Committee on Public Safety, Intergovernmental, and
Military Affairs

Date: Friday, February 2, 2018
Time: 3:00 P.M.
Place: Conference Room 414, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2614, Relating to Taxation

The Department of Taxation (Department) offers the following comments on S.B. 2614 for the Committee's consideration.

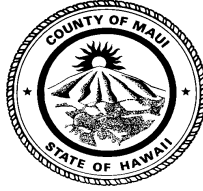
S.B. 2614 extends the deadline for a county to adopt an ordinance to establish a general excise tax surcharge tax (CS) from the March 31, 2018 to March 31, 2019. The bill is effective upon its approval. To date, only Honolulu and Kauai Counties have adopted a CS. Thus, this measure would provide Hawaii and Maui Counties with the extension.

The Department notes that current law requires that the county ordinance be adopted prior to March 31, 2018 with imposition and collection of the CS to begin January 1, 2019. This provides the Department with a minimum of nine months to prepare. S.B. 2614 extends the ordinance adoption deadline, but does not extend the date on which the imposition and collection begins.

The Department respectfully request that the imposition and collection of a CS that is adopted between March 31, 2018 and March 30, 2019 begin on January 1, 2020. This will provide the Department sufficient time to make necessary form and computer changes.

Thank you for the opportunity to provide comments.

ALAN M. ARAKAWA
MAYOR



200 South High Street
Wailuku, Maui, Hawai'i 96793-2155
Telephone (808) 270-7855
Fax (808) 270-7870
E-mail: mayors.office@mauicounty.gov

OFFICE OF THE MAYOR
Ke`ena O Ka Meia
COUNTY OF MAUI – Kalana O Maui

February 2, 2018

TESTIMONY OF ALAN M ARAKAWA
MAYOR
COUNTY OF MAUI

BEFORE THE SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY
AFFAIRS

Friday, February 2, 2018, 3:00 p.m.
Conference Room 414

SB2614 RELATING TO TAXATION.

Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair
Honorable Members of the Senate Committee On Public Safety, Intergovernmental, And Military

Thank you for this opportunity to give comments on SB2614.

The purpose of this bill is to extend the period by one year that a county may adopt a surcharge on state tax, under certain conditions, from March 31, 2018, to March 31, 2019.

While the administration supports the intent of this bill, we think that it would be more acceptable to the Maui County Council if we had more flexibility as to what we can do with the funds. Restricting the counties to utilize the funds for transportation-related projects only has been a sticking point for many as some of our transportation projects are already paid for out of the County's Highway Fund. As a background, the Highway Fund was established to deposit fuel taxes, public utility franchise taxes, public transit fares, and motor vehicle weight taxes. Such revenues are used to account for acquisition, design, construction, improvement, repair and maintenance of county highways, streets, street lights, public transit and storm drains and bridges. Revenues are also used for purposes and functions connected with mass transit.

For this reason, the County of Maui requests flexibility to utilize the funds to address other critical issues of concern to the State of Hawaii such as homelessness and other social welfare programs, public safety, deferred facility projects, and economic development initiatives,

I fully support the intent of this measure and would request some deliberation on our request.

Sincerely,

Alan M. Arakawa
Mayor, County of Maui

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i
Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokālole Hwy., Bldg C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

February 1, 2018

Senator Clarence K. Nishihara, Chair
Committee on Public Safety, Intergovernmental, and Military Affairs
Hawai'i State Capitol, Room 414
Honolulu, HI 96813

Dear Chair Nishihara, and Committee Members:

Re: SB 2614 GET Surcharge
Hearing Date: 02/05/18 – 3:00 pm; Conference Room 414

Please accept this testimony in support of SB 2614, extending the opportunity for a County to add a surcharge to the State GET.

As you may know, I have been opposed to increasing the GET in Hawai'i County for as long as I have been Mayor. However, I recently had to come to terms with the fiscal vise that makes it nearly impossible to balance our County budget, and provide the services that our communities need, without increasing our tax revenue. I therefore sent a proposal to our Council calling for the surcharge, with the understanding that it should be acted on as a last resort.

With March 31, 2018 rapidly approaching, Hawai'i County may need additional time to make the difficult decision whether or not to adopt a surcharge. For that reason, the amendments proposed in SB 2614 would be to our benefit, and I ask that you give this bill your favorable consideration.

Respectfully submitted,

Harry Kim
Mayor, County of Hawai'i

Eileen O'Hara
Council Member
Council District 4

Chair: Environmental
Management Committee



Phone: (808) 965-2712
Fax: (808) 961-8912
Email: eileen.ohara@hawaiicounty.gov

Vice Chair: Planning Committee and
Agriculture, Water & Energy
Sustainability Committee

County of Hawaii
Hawaii County Council

25 Aupuni Street, Suite 1402 • Hilo, Hawai'i 96720

Senator Clarence K. Nishihara
Chair, Committee on Public Safety, Intergovernmental, and Military Affairs
Hawai'i State Senate

February 1, 2018

**Re: In Support of Senate Bill 2614, from Hawai'i County Council District 4
To be heard by PSM on 02-02-18 3:00PM in conference room 414**

Aloha Chair Nishihara and Committee Members:

I'm writing to express my support of Senate Bill 2614, which extends the period by one year that a county may adopt a surcharge on state general excise tax, under certain conditions, from March 31, 2018, to March 31, 2019.

It is important for the state legislature to recognize that the County Councils representing the four counties have frequent turnover. Thus, councilmembers who entered office in 2017 and may constitute a majority of a given council, have not had sufficient time to consider ways to balance their expanding budgets due to union wage increases and a reduction in TAT revenues from the state. An additional year would help give time to conduct the stringent investigation into the direct impacts of increasing GET by one-half percent.

Please consider the impact this Bill will have on the economy of the Counties of Hawai'i, and contact me if you have any questions about my support or knowledge of the subject.

Sincerely,

Eileen O'Hara
Council Member
Council District 4

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Extends Period for Counties to Opt-In on GET Surcharge

BILL NUMBER: SB 2614

INTRODUCED BY: KEITH-AGARAN, BAKER, ENGLISH, GALUTERIA, INOUYE, KIDANI, K. RHOADS, Gabbard, Kim

EXECUTIVE SUMMARY: Extends the period by one year that a county may adopt a surcharge on state tax, under certain conditions, from March 31, 2018, to March 31, 2019.

SYNOPSIS: Amends section 46-16.8(c), HRS, to give all counties the option to adopt a general excise and use tax surcharge for an additional year, to March 31, 2019.

Makes conforming amendments in sections 237-8.6 and 238-2.6, HRS.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This measure concerns the 0.5% surcharge on the general excise tax that is currently imposed in the City and County of Honolulu, sometimes known as the “rail surcharge.” As originally enacted in 2006, the rail surcharge was scheduled to sunset on December 31, 2022. The surcharge authority was extended to December 31, 2027, by Act 240, Session Laws of Hawaii 2015, and the City & County of Honolulu extended the surcharge by Ordinance 16-1. To date, Kauai County is the only other county that has adopted a surcharge ordinance, and collections of the Kauai surcharge will begin in January 2019. Kauai Ord. No. 1021 (Dec. 11, 2017).

How can counties raise money to balance their budgets?

One source of funding that is available to any county is the real property tax. Article VIII, section 3 of the Hawaii Constitution exclusively and directly gives power to the counties to impose real property tax. *State ex rel. Anzai v. City and County of Honolulu*, 99 Hawai‘i 508, 57 P.3d 433 (2002), established that for at least the past twenty years, any county is “free to exercise its exclusive authority to increase, diminish, enact, or repeal any exemptions involving real property taxes without interference by the legislature.” *Id.*, 57 P.3d at 446. The real property tax is imposed by county ordinance, it is imposed on those under the jurisdiction of the county and not of the state, and the money raised belongs to the county imposing it.

Another source of funding is state tax; specifically, state tax that is shared with the counties. Article VIII, section 3 of the Hawaii Constitution provides:

The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivisions, and except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively

by the counties, with the exception of the county of Kalawao. The legislature shall have the power to apportion state revenues among the several political subdivisions.

Where the funds raised are by state statute imposing a state tax, the money raised is the State's money. The Hawaii Constitution, in the language quoted above, explicitly empowers the Legislature to apportion that money to one or more political subdivisions however the Legislature sees fit. Money can be raised for general revenue purposes, as is the case with most taxes including the Transient Accommodations Tax. That money can also be directed to special funds used for specific purposes, as is the case with the fuel tax that feeds the Highway Fund. Sometimes the tax money raised is directed to a multitude of uses, as with the TAT and the Conveyance Tax. It has been held that such funds can be disbursed to one or more counties through grants in aid, and that the State can enact conditions upon the power to disburse or give discretion to the Executive Branch to withhold disbursement. *Fasi v. Burns*, 56 Hawai'i 615, 618-19, 546 P.2d 1122, 1125 (1976).

The county surcharge on the GET, which is the subject of this bill, is imposed by county ordinance and not state law, although state statute delegates the power to tax. The State has asserted the authority to control disbursement of surcharge moneys, and has provided for this in HRS section 248-2.7. At present the disbursement controls apply only to a county with a population over 500,000 (namely the City & County of Honolulu). The Foundation is concerned that disbursement controls are inconsistent with *State ex rel. Anzai v. City and County of Honolulu*, 99 Hawai'i 508, 57 P.3d 433 (2002), and thus invalid.

Digested 1/31/2018